REMARKS

Initially, in the Office Action, claims 1-12 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Number 7,076,005 (Willenegger).

By the present response, Applicant has amended claims 1, 6, 7 and 12 to further clarify the invention. Claims 1-12 remain pending in the present application.

35 U.S.C. §102 Rejections

Claims 1-12 have been rejected under 35 U.S.C. §102(e) as being anticipated by Willenegger. Applicant respectfully traverses these rejections.

Willenegger discloses detecting incorrect transmission format upon encountering a decoding error in a variable-format transmission scheme, wherein the decoding error results from an unsuccessful decoding of a frame. The permissible formats are prioritized resulting in a prioritized order. The frame data is then decoded according to one or more of the permissible formats in the prioritized order, and if the decoding is successful in accordance with one of the formats, that format is selected as the correct transmission format.

Regarding claims 1, 6, 7 and 12, Applicant submits that Willenegger does not disclose or suggest the limitations in the combination of each of these claims of, *inter alia*, decoding the inband bit portion of a received frame to obtain confidence levels associated with each of the (M) codec modes before a decoding error has been detected, or calculating a plurality of inband decode metrics, one for each speech coded mode before a decoding error has been detected. The Examiner asserts that Willenegger discloses these limitations at column 1, lines 62-67, and column 5, lines 25-67. However, these portions merely disclose that a transmitter provides a receiver with information that identifies the particular transmission format used in the encoding process and the receiver decodes the received information assuming that the transmission format is the one indicated by the transmitter, and that when decoding the frame data according to the received format results in an error, a format detection operation

is triggered where a polarity of permissible formats is prioritized resulting in a prioritized order of the formats reflecting the probability that the permissible formats were used to encode the received frame, and that the received transmission format is not included within the prioritized order since it has already been demonstrated that this format does not result in a successful decoding. This is not decoding the inband bit portion of a received frame to obtain confidence levels associated with each of the (M) codec modes before a decoding error has been detected, as recited in the claims of the present application. Willenegger clearly discloses that a decoding error occurs first and then the format detection operation is triggered resulting in the prioritizing of permissible formats (see, column 5, lines 40-42). In contrast, the limitations in the claims of the present application relate to obtaining confidence levels associated with each of the (M) coded modes before a decoding error has been detected. In Willenegger, permissible formats are prioritized in order only after a decoding error has occurred. Similarly, Willenegger does not disclose or suggest calculating a plurality of inband decode metrics, one for each speech codec mode before a decoding error has been detected, as recited in the claims of the present application.

Regarding claims 2-5 and 8-11, Applicant submits that these claims are dependent on one of independent claims 1 and 7 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims.

Accordingly, Applicant submits that Willenegger does not disclose or suggest the limitations in the combination of each of claims 1-12 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

Conclusion

In view of the foregoing amendments and remarks, Applicant submits that claims 1-12 are now in condition for allowance. Accordingly, early allowance of such claims is respectfully requested. If the Examiner has any questions about the present Amendment or anticipates finally rejecting any claim of the present application, a telephone interview is requested. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 09-0461.

Respectfully submitted,

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